

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :
: :
Langston Bar & Grill :
1831 Benning Road NE : Show Cause
: Hearing
: :
Retailer CT :
License No. 76260 ANC6A :
Case No. 13-CMP-00583 :
-----:

OCTOBER 15, 2014

The Alcoholic Beverage Control
Board met in the Alcoholic Beverage Control
Hearing Room, Reeves Building, 2000 14th
Street N.W., Washington, D.C., Chairperson
Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson

DONALD BROOKS, Member

NICK ALBERTI, Member

HECTOR RODRIGUEZ, Member

MIKE SILVERSTEIN, Member

JAMES SHORT, Member

HERMAN JONES, Member

ALSO PRESENT:

Fernando Rivero

Antonio Roberson

Monica Clark

TABLE OF CONTENTS

WITNESS CROSS	DIRECT	CROSS	RE-DIRECT	RE-
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M. Clark	7	13		18
A. Roberson	22	23		29

EXHIBITS

MARKED/RECEIVED

Government

1 Langston quarterly statement	11/11
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Respondent

1 Fax transmission	29/29
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ITEM

PAGE

Opening statement by Government	5
Closing argument by Government	41
Closing statement by Respondent	45

1 P-R-O-C-E-E-D-I-N-G-S

2 1:40 p.m.

3 CHAIR MILLER: Okay, the Board is
4 back on the record for its afternoon
5 hearings.

6 The first case is Case No. 13-
7 CMP-00583, Langston Bar & Grill, located at
8 1831 Benning Road, Northeast, License No.
9 76260 in ANC 6A. Good afternoon.

10 MR. RIVERO: Good afternoon.
11 Fernando Rivero for the District of
12 Columbia.

13 MR. ROBERSON: Antonio Roberson,
14 Langston Bar & Grill.

15 CHAIR MILLER: Okay, good
16 afternoon. This is a Show Cause Hearing.
17 Are there any preliminary matters?

18 MR. RIVERO: There are no
19 preliminary matters and the Government is
20 ready to move to a hearing today.

21 CHAIR MILLER: Okay, Mr.
22 Roberson, did you have any questions about

1 these proceedings or do you need for me to
2 give you an idea of how these proceedings
3 work?

4 MR. ROBERSON: No.

5 CHAIR MILLER: You're okay with
6 that?

7 MR. ROBERSON: Yes, I'm fine.

8 CHAIR MILLER: Okay, all right.
9 So, the Government has the burden proof and
10 goes first.

11 MR. RIVERO: Thank you.

12 CHAIR MILLER: Okay.

13 MR. RIVERO: Good afternoon,
14 Board Members. We're here today in the Show
15 Cause matter of Langston Bar & Grill, LLC,
16 trading as Langston Bar & Grill, located at
17 1831 Benning Road, Northeast.

18 Show Cause issued in this matter
19 concerns the charge that the Licensee failed
20 to timely file with the Board, a required
21 quarterly statement, which reports the gross
22 receipts of the establishment, its sales and

1 alcoholic beverages, gross receipts for food
2 sales and total expenses for purchases of
3 food and alcohol beverages, and expenses for
4 purchases of food and alcoholic beverages
5 separately.

6 This is required by D.C. Official
7 Code 25-113(b)(2)(a).

8 It is our belief by the
9 preponderance of the evidence, based on our
10 testimony through witness, the Auditor of
11 ABRA Monica Clark, that the Licensee did not
12 file the required report, which was due no
13 later than April 30, 2013, that in fact, the
14 report was filed later in the year, in
15 August.

16 CHAIR MILLER: Okay, does that
17 complete your opening statement?

18 MR. RIVERO: That does.

19 CHAIR MILLER: And will you be
20 having a witness today?

21 MR. RIVERO: The Government will
22 call Monica Clark.

1 CHAIR MILLER: Okay, Mr.
2 Roberson, are you going to be your witness?

3 MR. ROBERSON: Yes.

4 CHAIR MILLER: Okay, and you
5 could make an opening statement right now,
6 if you so choose, like Mr. Rivero did, or
7 you can wait until it's your turn to do your
8 case.

9 MR. ROBERSON: I'll wait.

10 CHAIR MILLER: Okay, all right.

11 MR. RIVERO: Thank you. The
12 Government will call Monica Clark at this
13 time.

14 CHAIR MILLER: Okay, good
15 afternoon.

16 Whereupon,

17 MONICA CLARK
18 was called for examination, having been
19 first duly sworn, was examined and testified
20 as follows:

21 CHAIR MILLER: Okay, thank you.

22 DIRECT EXAMINATION

1 BY MR. RIVERO:

2 Q Good afternoon. Can you please
3 state your name for the record?

4 A My name is Monica Clark. That's
5 M-O-N-I-C-A, C-L-A-R-K.

6 Q Ms. Clark, what is your
7 occupation?

8 A I am a Compliance Analyst with
9 the Alcoholic Beverage Regulation
10 Administration.

11 Q Okay, and how long have you been
12 with ABRA in this capacity?

13 A I've been with ABRA for just a
14 little over two years.

15 Q Okay, and what are your duties
16 with respect to your job at ABRA?

17 A Well, I receive quarterly
18 statements, review them, record the data
19 from those statements from Licensees, and I
20 also assist in audit matters.

21 Q Thank you. Are you familiar with
22 an establishment known as Langston Bar &

1 Grill?

2 A I am.

3 Q And how are you familiar with
4 this establishment?

5 A Well, actually, the establishment
6 appeared on the non-filers list of
7 individuals who had not submitted their
8 quarterly statements for the first quarter
9 of 2013.

10 Q Okay, I'm going to go ahead and
11 show you a document, a copy which has been
12 previously shared with the Licensee, and I'd
13 like you to take a look at it, just to
14 identify it. What does that document look
15 like to you?

16 A This is a quarterly statement
17 prepared by the Licensee for the first
18 quarter of 2013, signed by the owner.

19 Q And what is the signature there?

20 A Antonio Roberson.

21 Q Is this an accurate copy of the
22 document?

1 A Yes, it is.

2 Q Okay, and did you receive this
3 document?

4 A Yes, I did receive this document.

5 MR. RIVERO: Okay, the Government
6 would move into evidence at this time, a
7 copy of the quarterly statement prepared by
8 Antonio Roberson, as testified to by the
9 witness.

10 CHAIR MILLER: Has Mr. Roberson
11 been shown the document?

12 MR. RIVERO: He has. Mr.
13 Roberson actually has a copy of the
14 document.

15 CHAIR MILLER: Okay, can I have a
16 copy to determine whether to admit this?

17 MR. RIVERO: Certainly, if we
18 could approach?

19 CHAIR MILLER: Yes, do you have
20 an extra copy or no?

21 MR. RIVERO: I do not, but I'm
22 happy to share this particularly copy.

1 CHAIR MILLER: Okay.

2 MR. RIVERO: So, if I may
3 approach?

4 CHAIR MILLER: Okay, thank you.
5 Mr. Roberson, do you have any objections?

6 MR. ROBERSON: No.

7 CHAIR MILLER: Okay, all right,
8 then Government Exhibit-1, the quarterly
9 statement filing by Mr. Roberson, is
10 admitted.

11 (Whereupon, the above-referred to
12 document was marked as Government Exhibit
13 No. 1 and admitted into evidence.)

14 CHAIR MILLER: Okay.

15 BY MR. RIVERO:

16 Q Ms. Clark, if you could testify
17 about this document. This document is for
18 what quarter?

19 A For the first quarter of 2013.

20 Q Okay, and when is this document
21 suppose to be filed, the latest date?

22 A The latest date that this

1 document should be filed would be April 30th
2 of 2013.

3 Q Okay, all right, and what date is
4 it filed?

5 A It was received and filed on
6 August 13, 2013.

7 Q What can you tell me about the
8 handwriting in this notation on the top
9 right-hand corner?

10 A That is my handwriting on the top
11 right-hand corner. It indicates that the
12 document was received late. Those are my
13 initials, and the date that it was received
14 and recorded.

15 Q And how it was received -- how
16 was it received?

17 A It was received -- it was brought
18 in by Mr. Roberson's assistant, to the
19 office.

20 Q Okay, thank you.

21 MR. RIVERO: No further questions
22 at this time.

1 CHAIR MILLER: Okay, Mr.
2 Roberson, do you have any questions for the
3 witness?

4 MR. ROBERSON: Yes.

5 CHAIR MILLER: Based on the
6 testimony, okay?

7 MR. ROBERSON: Yes, so, at this
8 time, it's not my opportunity to submit
9 anything?

10 CHAIR MILLER: No, you'll have an
11 opportunity when he's finished with his
12 case. But where are you going?

13 MR. ROBERSON: Right up here.

14 CHAIR MILLER: No, you can do it
15 right from the table.

16 MR. ROBERSON: All right, okay.

17 CROSS EXAMINATION

18 BY MR. ROBERSON:

19 Q Ms. Clark, do you recall how we
20 were made aware that the document was not
21 submitted on time?

22 A I am not sure how you actually

1 were notified.

2 Q Were you --

3 A Personally.

4 Q -- made aware when my
5 administrative person came in, that we were
6 under the assumption that you did, in fact,
7 have the document?

8 A I'm not aware of what your
9 assumptions were.

10 Q That we were operating under the
11 assumption that we did not -- that we had
12 already submitted the document, and that you
13 had it in your possession, and she had said
14 that she wanted to protest whatever the --
15 the fine or the citation.

16 A I would --

17 Q That she was given instructions
18 on how to do that?

19 A Could you rephrase that?

20 Q We received a citation. So, I'm
21 pretty clear on that, and we wanted to
22 protest the findings of the citation. So,

1 she asked you for instructions on how do we
2 protest the findings for the citation that
3 we received.

4 A Your assistant came to the office
5 and she did mention something about wanting
6 to protest, but that was because the
7 quarterly statement had not been received.

8 Q I'm clear on that, but she -- at
9 the same time, she brought you both Quarter
10 1 and Quarter 2 concurrently at the same
11 time?

12 A Correct.

13 But she made clear, that she
14 wanted to find out -- wanted instructions on
15 how to protest or how to argue the citation
16 that was being issued at that time.

17 A That was in 2013. I don't recall
18 exactly -- the exact wording that was said
19 that day.

20 Q Not the exact wording, but just,
21 do you remember just overall that she had
22 questions about how to go about the process

1 of --

2 A I don't recall.

3 Q No?

4 A Just don't recall.

5 MR. ROBERSON: Okay, that's all.

6 CHAIR MILLER: Okay, any Board
7 questions? Go ahead.

8 MEMBER SILVERSTEIN: Go ahead.

9 CHAIR MILLER: Could you clarify,
10 did you say that the assistant, Mr.
11 Roberson's assistant personally delivered
12 the quarterly statement?

13 MS. CLARK: She brought them to
14 the office.

15 CHAIR MILLER: That was on August
16 13th?

17 MS. CLARK: In August, August 13,
18 2013.

19 CHAIR MILLER: Okay, and did you
20 know that because you actually met with her?

21 MS. CLARK: Yes, she asked to
22 speak with me.

1 CHAIR MILLER: Okay.

2 MEMBER SILVERSTEIN: Did she
3 actually -- what was the last thing you
4 said, please?

5 MS. CLARK: She asked to speak
6 with me, when she arrived.

7 MEMBER SILVERSTEIN: Thank you.

8 CHAIR MILLER: All right, go
9 ahead.

10 MEMBER ALBERTI: So, when the
11 assistant visited you on August 13th, and
12 delivered the two quarterly statements, do
13 you recall -- did you record that? Is there
14 a process for recording that you've received
15 them?

16 MS. CLARK: Yes. Well, she had
17 to come -- she would have come to the front
18 -- to the front desk. She asked to speak to
19 me.

20 I spoke to her. She gave me the
21 quarterly statements. I indicated on the
22 statements that -- what date that I received

1 them, and then I gave a copy back to her.

2 MEMBER ALBERTI: Okay, so, how
3 did you indicate? Did you time stamp them
4 or --

5 MS. CLARK: I initialed and put
6 the date that I received it.

7 MEMBER ALBERTI: So, you put the
8 date on them and you initialed it --

9 MS. CLARK: Yes.

10 MEMBER ALBERTI: -- at the point?

11 MS. CLARK: Yes.

12 MEMBER ALBERTI: Okay, thank you.
13 Thank you.

14 CHAIR MILLER: Okay, any other
15 questions?

16 (No audible response)

17 CHAIR MILLER: All right, any
18 questions on Board questions, Mr. Rivero?

19 MR. RIVERO: None.

20 CHAIR MILLER: Mr. Roberson?

21 MR. ROBERSON: No.

22 CHAIR MILLER: Okay, does that

1 conclude her testimony?

2 All right, thank you very much.

3 MR. RIVERO: Thank you, Ms.

4 Clark.

5 CHAIR MILLER: Any --

6 MR. ROBERSON: I do have a
7 question. Can I ask another question?

8 CHAIR MILLER: Okay, based on the
9 Board questions, yes.

10 MR. ROBERSON: Only based on the
11 Board questions?

12 CHAIR MILLER: Yes.

13 MR. ROBERSON: Based on the Board
14 questions? I guess I can ask it, and you
15 can tell me.

16 CHAIR MILLER: Yes, you can ask
17 it and Mr. Rivero may object, if it's beyond
18 the scope, okay?

19 RE-CROSS EXAMINATION

20 BY MR. ROBERSON:

21 Q Are you aware of any other
22 documents that were due from Langston Bar &

1 Grill during the month of April?

2 A I don't recall.

3 MR. RIVERO: I am going to
4 object, actually. The question is far too
5 broad. The witness has testified to a
6 specific responsibility within the Agency.
7 The question itself assumes an enormous
8 amount of possible documentation, some of
9 which may be beyond the witness's competency
10 here at this time.

11 Testifying as to documents that
12 were produced at --

13 CHAIR MILLER: Right. Do you
14 have a response to that, Mr. Roberson?

15 MR. ROBERSON: No.

16 CHAIR MILLER: The question was
17 did she ever receive -- did she receive --

18 MR. ROBERSON: Well, I imagine
19 she's in the capacity of receiving
20 documents, I guess from us.

21 So, my question was, was she
22 aware of any other documents that were due

1 during the month of April, that had an April
2 deadline.

3 MR. RIVERO: Again, the
4 Government objects because the witness has
5 testified her job is to work with quarterly
6 statements. That's what she testified
7 about.

8 The question had to do with
9 whether the witness is aware of any
10 documents --

11 CHAIR MILLER: Okay.

12 MR. RIVERO: -- due to the
13 Agency. That would be -- possibly beyond
14 the scope of the witness's testimony. I
15 don't want the witness to --

16 CHAIR MILLER: Okay.

17 MR. RIVERO: -- speculate, as to
18 what documents are encompassed by this
19 question.

20 MR. ROBERSON: Well, the question
21 was whether or not she was aware.

22 CHAIR MILLER: Okay, I think I'm

1 going to sustain it. I don't think it would
2 help us make a decision in any event, on the
3 matter at issue, which is this particular
4 filing.

5 So, okay, is that it? All right,
6 thank you very much.

7 MR. RIVERO: Thank you, Ms.
8 Clark. The Government has no further
9 witnesses.

10 CHAIR MILLER: Okay, Mr.
11 Roberson, I'm going to swear you in. Are
12 you going to testify now?

13 MR. ROBERSON: Yes.

14 CHAIR MILLER: Okay, you probably
15 should go over there, because it's easier
16 for all of us to interact with the witness
17 over there.

18 Whereupon,

19 ANTONIO ROBERSON
20 was called for examination, having been
21 first duly sworn, was examined and testified
22 as follows:

1 CHAIR MILLER: Okay, so,
2 basically, you know, before I said you could
3 make an opening statement if you want to,
4 but often when it's the same person, their
5 story is the story, and so, you can really
6 address your issue however works for you.

7 DIRECT EXAMINATION {testimony}

8 MR. ROBERSON: Okay, my position
9 on this is that when we were made aware that
10 the -- that ABRA had not received the
11 documents, I did instruct my assistant to
12 bring the documents to ABRA.

13 Prior to that, I do have a fax
14 transmittal sheet, that's dated for, I think
15 April 11th, some time at night. That is my
16 proof, that we made the attempt to deliver
17 the document in a timely fashion.

18 Normally, there have been
19 occasions when I've tried to send stuff that
20 didn't go through. I would call and say,
21 "Hey, did you get it," and you know, people
22 would say 'yay' or 'nay'.

1 On this occasion, I didn't follow
2 up with a telephone call, but my assumption
3 was that since there was, you know, no poor
4 line condition, no busy, you know, whatever
5 the statement that normally the fax
6 transmission would give you, that the
7 document was actually delivered. So, that
8 was my assumption, by way of fax.

9 CHAIR MILLER: Okay, do you have
10 cross?

11 MR. RIVERO: Certainly.

12 CHAIR MILLER: Okay.

13 CROSS EXAMINATION

14 BY MR. RIVERO:

15 Q Mr. Roberson, you testified that
16 you were made aware that your report was not
17 timely filed, is that correct?

18 A Yes.

19 Q And how were you made aware that
20 the report was not timely filed?

21 A I was given a citation.

22 Q A citation, okay, and how did you

1 receive that citation?

2 A I think one of my staff members,
3 ABC managers actually received it and gave
4 it to me.

5 Q When was that citation -- was
6 that delivered to your establishment?

7 A I'm pretty sure, yes.

8 Q And when was that delivered?

9 A I'm not clear on the dates, but
10 I'm -- what I'm pretty clear on, within
11 close proximity to the date, is when we
12 dropped off the two reports, it was within a
13 matter of no more than a week.

14 Q Okay, repeat that again.

15 A I'm sure it was within a couple
16 of weeks of the time that we dropped off
17 both Quarter 1 and Quarter 2. So, that's
18 what sponsored me to drop off the first
19 quarter, because we got notification that it
20 was not received.

21 Q I need to clarify your testimony.
22 The question has to do with when you were

1 notified that your Quarter 1 report, which
2 was due on April 30th, the subject of this
3 case, when it was -- when you realized that
4 it was not timely filed?

5 You testified you received a
6 citation.

7 A Right.

8 Q My question is, when did you
9 receive the citation, and you're saying that
10 it was --

11 A I'm not quite --

12 Q -- after you had submitted the --

13 A No, it was before.

14 Q Okay.

15 A So, that was the reason that
16 sponsored us to come out and drop off both
17 reports, because now, we knew there was a
18 problem.

19 Q Okay.

20 A We knew you didn't have one, so
21 we dropped off one and two, at the same
22 time.

1 Q All right.

2 A So, and my assumption is, it had
3 to be within a couple of weeks of receiving
4 the citation.

5 Q Right. So, I think, to make sure
6 I understand your testimony, there was --
7 there is testimony by a witness that the
8 report was hand-delivered by your assistant.
9 There were two reports, but this case is
10 about one.

11 A Yes.

12 Q On August 13, 2013.

13 A Yes.

14 Q So, is it your testimony that, I
15 think within a couple of weeks prior to that
16 date, that you received the citation --

17 A No, got the citation first.

18 Q Right, my question --

19 A After we got the citation, then
20 we hand-delivered both reports to --

21 Q Okay.

22 A -- ABRA.

1 Q And you hand-delivered on August
2 13th, 2013?

3 A I mean, you know, I accept that
4 date, but I don't recall.

5 Q Okay, whatever that date is on
6 there --

7 A I accept it.

8 Q -- your testimony is, about two
9 weeks before that date, is when you had
10 received the citation?

11 A That's my -- yes, that's my
12 assumption.

13 Q Okay, all right. You also
14 testified as to a fax transmission.

15 A Yes.

16 Q Okay, is that in evidence at this
17 time?

18 A No.

19 Q You would have to --

20 CHAIR MILLER: Okay.

21 MR. RIVERO: The witness
22 testified that he has a fax transmission.

1 CHAIR MILLER: Right.

2 MR. RIVERO: But it's not in
3 evidence before the Board, and so, I would
4 like to point out that if the Board is to
5 consider it, the witness has to present it.

6 CHAIR MILLER: Right.

7 MR. RIVERO: To the Board.

8 CHAIR MILLER: Okay, so, there
9 are these rules of procedure here.

10 So, as Mr. Rivero asked that his
11 evidence document be admitted into evidence,
12 you know, the quarterly statement, if you
13 would like your fax transmission to be
14 entered into evidence, so we can consider
15 that in your case, you just have to ask me
16 or tell me, "I'd like to move this,"
17 identify the document, the fax transmission
18 into evidence.

19 MR. ROBERSON: I'd like to move
20 to submit the fax transmittal into evidence.

21 CHAIR MILLER: Okay, and do you
22 have an extra copy or what?

1 MR. ROBERSON: Yes.

2 CHAIR MILLER: Okay, so, Mr.
3 Rivero has a copy?

4 MR. ROBERSON: Yes.

5 MR. RIVERO: I have a copy.

6 CHAIR MILLER: Okay, thank you.
7 All right, so, is there an objection?

8 MR. RIVERO: The Government
9 doesn't have any objection.

10 CHAIR MILLER: Okay, then
11 Respondent Exhibit-1, which is a
12 transmission verification report, is
13 admitted into evidence.

14 (Whereupon, the above-referred to
15 document was marked as Respondent Exhibit
16 No. 1 received into evidence.)

17 CHAIR MILLER: Okay.

18 MR. RIVERO: And I do have cross.

19 CHAIR MILLER: Go ahead, yes.

20 RE-CROSS EXAMINATION

21 BY MR. RIVERO:

22 Q I actually have a copy of what

1 you provided the Board, so, I'm going to use
2 that to help you answer some of my
3 questions.

4 So, I have the -- for purposes of
5 identification on the record, I have the
6 document labeled, it's one page
7 'transmission verification report'.

8 Okay, and you see what the -- if
9 there are currently two sets of dates.
10 There is a date on the top right, and then
11 there's a date in the center.

12 A Right.

13 Q Right, and what is that date on
14 the top right?

15 A That's the date that we printed
16 the document out.

17 Q Printed what?

18 A The fax verification report.

19 Q Okay.

20 A The transmission verification
21 report.

22 Q Okay, and then there's another

1 date. What is that other date?

2 A That's a date that we made or
3 attempted to make the fax.

4 Q You attempted to make the fax?

5 A Yes.

6 Q Okay.

7 CHAIR MILLER: I'm sorry, could
8 you repeat that?

9 MR. ROBERSON: That's the date
10 that the fax was transmitted.

11 CHAIR MILLER: Which date?

12 MR. ROBERSON: The April 11th
13 date.

14 CHAIR MILLER: Okay.

15 BY MR. RIVERO:

16 Q So, it's your testimony that you
17 faxed the report on April 11th, is that
18 right?

19 A Yes.

20 Q Okay, now, looking at this
21 document, how can I tell that you faxed that
22 report, just by looking at this document?

1 A I guess there's no way to tell.

2 Q There's no way to tell, okay.

3 MR. RIVERO: All right, no
4 further questions.

5 MR. ROBERSON: Well, I do have a
6 -- of course, I can make a comment on that.

7 Normally, when a fax does not go
8 through, I actually try to fax as close to -
9 -

10 MR. RIVERO: Pardon?

11 MR. ROBERSON: I tried to fax
12 something to Mr. Gordy this morning. I
13 didn't go through and it gave me a
14 declaration that the transmittal was not
15 successful.

16 MR. RIVERO: And?

17 MR. ROBERSON: So, normally when
18 something doesn't go through it tells you
19 that there was a problem.

20 MR. RIVERO: What is 'it'? The
21 machine?

22 MR. ROBERSON: Yes, the machine.

1 MR. RIVERO: Okay, and you have
2 this document that shows that something
3 didn't successfully transmit?

4 MR. ROBERSON: Yes, Marty Fowler
5 has it now, but yes, I'm pretty sure.

6 MR. RIVERO: Who has it?

7 MR. ROBERSON: Marty. I have
8 another issue that -- Marty has it, Marty
9 Fowler has it.

10 MR. RIVERO: I'm sorry, who?

11 MR. ROBERSON: Marty Fowler has
12 it.

13 MR. RIVERO: Marty Filer?

14 MR. ROBERSON: Fowler.

15 MR. RIVERO: Fowler?

16 MR. ROBERSON: Fowler.

17 MR. RIVERO: And who is that?

18 MR. ROBERSON: She's a specialist
19 at ABRA.

20 MR. RIVERO: Okay, all right. No
21 further questions.

22 CHAIR MILLER: Okay, are there

1 Board questions?

2 (No audible response)

3 CHAIR MILLER: Is there a date on
4 the quarterly statement filing of when you
5 submitted or prepared it? Do you have that
6 in front of you?

7 MR. ROBERSON: I don't have it in
8 front of me.

9 CHAIR MILLER: Mr. Rivero, are
10 you looking for it?

11 MR. RIVERO: Yes.

12 CHAIR MILLER: Okay, thank you.

13 MR. RIVERO: The quarterly
14 report?

15 CHAIR MILLER: Yes.

16 MR. RIVERO: Okay.

17 CHAIR MILLER: I don't see it,
18 but maybe --

19 MR. RIVERO: I'm using the
20 Licensee's own copy, and providing it to the
21 Licensee at this time.

22 CHAIR MILLER: Thank you.

1 MR. ROBERSON: No, there's no
2 date for when it was prepared, just has the
3 quarter in and the calendar year.

4 CHAIR MILLER: Okay, so, the date
5 on the transmission report, which shows 4/11
6 is the date you said that you faxed it?

7 MR. ROBERSON: Yes, I'm positive
8 I did it earlier that day, and then faxed it
9 off, you know, later that night.

10 CHAIR MILLER: Okay, and is 2150,
11 which is after that, is that the time?

12 MR. ROBERSON: Yes.

13 CHAIR MILLER: What time is that
14 at night? That's nighttime?

15 MR. ROBERSON: Yes, Military
16 time, so, it should have been like 9:50 p.m.

17 CHAIR MILLER: Okay.

18 MR. ROBERSON: I believe.

19 CHAIR MILLER: And then there is
20 a phone number underneath that, or a fax
21 number?

22 MR. ROBERSON: Yes. No, that's

1 the phone number.

2 CHAIR MILLER: All right.

3 MR. ROBERSON: Well, which one?

4 One which form? On the quarterly report?

5 CHAIR MILLER: I'm looking at the
6 transmission. No, I'm looking at the
7 transmission report.

8 MR. ROBERSON: Yes, can I get it?

9 CHAIR MILLER: You don't have
10 that?

11 MR. ROBERSON: No, he just gave
12 me the quarterly report?

13 CHAIR MILLER: Mr. Rivero?

14 MR. RIVERO: Yes.

15 CHAIR MILLER: Could you be so
16 kind as to give Mr. Roberson a copy of the
17 transmission report, as well?

18 MR. RIVERO: Certainly. I'm
19 handing the witness, the Government's copy
20 of that document right now.

21 MR. ROBERSON: What was your
22 question?

1 CHAIR MILLER: The number, after
2 the fax number. It says -- I mean, it says
3 fax number/name, and then there's a number.

4 MR. ROBERSON: The telephone
5 number?

6 CHAIR MILLER: It says 202-442-
7 9563.

8 MR. ROBERSON: Yes.

9 CHAIR MILLER: Is that ABRA's fax
10 line?

11 MR. ROBERSON: Unless I put it in
12 wrong.

13 CHAIR MILLER: Okay, I think --
14 all right, I don't want to testify. There
15 is a telephone number on the -- there is a
16 fax number on the quarterly statement.

17 MR. ROBERSON: Yes, and my
18 assumption is, that is the correct fax
19 number for ABRA, yes.

20 CHAIR MILLER: Okay, so, then it
21 says -- well, the number of pages three?

22 MR. ROBERSON: Yes.

1 CHAIR MILLER: So, I have here in
2 evidence, the transmission report and then
3 the quarterly statement. What would the
4 third page be?

5 MR. ROBERSON: I have to assume
6 that I did a cover sheet and probably did a
7 note, like I tried to do earlier today, was
8 if there a problem, give me a call.

9 CHAIR MILLER: Okay, okay.

10 MR. ROBERSON: But you would have
11 had a transmittal sheet, the document and
12 then a note, "If there's a problem, give me
13 a call."

14 CHAIR MILLER: Okay, all right.
15 Thank you. Anybody else need to look at
16 this too?

17 MEMBER ALBERTI: No.

18 CHAIR MILLER: Okay, do you have
19 a question, Mr. Alberti?

20 MEMBER ALBERTI: Yes. Mr.
21 Roberson, maybe I mis-heard this.

22 So, who actually filed -- who

1 actually sent the fax, you or your
2 assistant?

3 MR. ROBERSON: I sent the fax.

4 MEMBER ALBERTI: Is that always
5 normally -- that's normal procedure?

6 MR. ROBERSON: No, it's probably
7 more regular than not regular, but I've had
8 other people send documents out for me, but
9 this -- I had -- I happened to have done
10 this from home.

11 MEMBER ALBERTI: So, do you use
12 the fax in your normal course of business?

13 MR. ROBERSON: No, it just
14 depends. For ABRA, it just depends on what
15 it is.

16 Today, I had to come in because
17 something was very urgent. If I can't, I'll
18 send a fax. I do happen to have Mac.

19 So, I've tried to documents
20 online, but they don't accept it from a
21 MacIntosh. So, for these kind of scenarios,
22 I either tend to drop them off or fax them.

1 MEMBER ALBERTI: Okay, so, you --
2 that doesn't really answer my question.

3 Do you really -- can you -- you
4 use your fax in the normal course of
5 business for other matters, besides ABRA?

6 MR. ROBERSON: Yes.

7 MEMBER ALBERTI: Okay, how often
8 would you say you use your fax?

9 MR. ROBERSON: Well, I have three
10 and I would imagine, I don't know, twice a
11 week maybe.

12 MEMBER ALBERTI: Okay, all right.
13 So, I think Mr. Rivero asked you, there is
14 no way -- I think he asked you the question
15 something like this.

16 There is no way of telling, from
17 this fax transmittal, that you've submitted
18 that -- that it was attached or associated
19 with the quarterly report, is that correct?

20 MR. ROBERSON: Yes.

21 MEMBER ALBERTI: And of course,
22 how can you be so sure that this is the

1 transmittal that went with the quarterly
2 report?

3 MR. ROBERSON: Yes, I don't -- to
4 my call and to my recollection, there is no
5 other business that would have been due to
6 ABRA, during that period of time.

7 You know, and that's what it was,
8 yes.

9 MEMBER ALBERTI: Okay, I have no
10 further questions.

11 CHAIR MILLER: Okay, anybody
12 else?

13 (No audible response)

14 CHAIR MILLER: Any questions on
15 Board questions?

16 MEMBER ALBERTI: Can I ask one
17 other question?

18 CHAIR MILLER: Okay, yes.

19 MEMBER ALBERTI: So, duration, do
20 you know what the duration is? It says
21 00:00:41. What would the duration be?

22 MR. ROBERSON: I'm assuming

1 that's 41 seconds.

2 MEMBER ALBERTI: Okay, all right,
3 thank you.

4 MR. ROBERSON: That's an
5 assumption.

6 CHAIR MILLER: Okay, anything
7 else?

8 MEMBER ALBERTI: Nothing else.

9 CHAIR MILLER: Okay, no other
10 questions? All right, does that conclude
11 your testimony?

12 MR. ROBERSON: Yes.

13 CHAIR MILLER: Wait a second. Do
14 you have a question? Okay, hold on just one
15 moment.

16 MEMBER ALBERTI: No, I have no
17 further -- go ahead.

18 CHAIR MILLER: No further
19 questions? Okay, thank you.

20 All right, rebuttal or closing?

21 MR. RIVERO: Thank you. Board
22 Members, once again, a case like this one

1 provides the Board an opportunity to
2 interpret the wording of the statute.

3 What is filing? What does filing
4 mean?

5 The responsibility for filing is
6 placed upon the Licensee, under Title 25 of
7 the D.C. Code. That much is clear.

8 Obviously, for pragmatic reasons,
9 you wouldn't want the Agency to be
10 responsible for telling everything or
11 chasing after every single Licensee, before
12 the report is due, when it's due and after
13 it's due. It's simply practically not
14 possible, hence the law places the
15 responsibility for filing on the Licensee.

16 Today you have received evidence,
17 clear evidence, that the report was in fact,
18 filed -- the report in question here, two
19 quarters were submitted by him, but only one
20 is the subject of this case, on August 13,
21 2013, in person to the Agency.

22 The witness made a copy and

1 signed it, and handed it over to the
2 Licensee and that is proof positive, that
3 the document was in fact, delivered and in
4 deed, filed on that day.

5 The Agency provides multiple
6 methods for filing, if you will, so-called.
7 But ultimately, the responsibility is the
8 Licensee's.

9 As you know, the best fool-proof
10 method is to walk right in the door with two
11 copies of the document, get a stamp and then
12 there is proof-positive. All kinds of
13 things happen.

14 You put it in the mailbox, and it
15 gets delivered to Maryland. You send it by
16 fax, and perhaps it doesn't make it through,
17 despite the letters 'ok' in the document
18 that is the Licensee's sole exhibit, and I
19 say sole exhibit because there could have
20 been other documents, for instance, a
21 citation or anything else, to back up and
22 support the Licensee's testimony, but we

1 don't have anything, but this document, and
2 the Licensee has, in fact, admitted, and you
3 all can see why, that this document is
4 really no proof that anything other than
5 three pages were faxed.

6 We stipulate to the fact that
7 this proves, this document proves that three
8 pages were faxed. What those three pages
9 were, you cannot tell from here.

10 The only evidence you have, which
11 meets the Government's preponderance of the
12 evidence burden, favors the Government's
13 case, that in fact, the document in
14 question, the quarterly report, was
15 delivered, filed on August 13, 2013, several
16 months after it was due.

17 We therefore, ask the Board to
18 find in favor of the Government on the
19 evidence before you, and we recommend a fine
20 of \$650, as penalty for this particular
21 violation. Thank you.

22 CHAIR MILLER: How much did you

1 say?

2 MR. RIVERO: A fine of \$650.

3 CHAIR MILLER: Mr. Roberson?

4 MR. ROBERSON: We made an honest
5 attempt to file the document on time. We
6 had -- we have evidence that we did transmit
7 to ABRA, you know, prior to going the option
8 -- the option of some faxes for ABRA, we
9 tried to do it electronically online, you
10 know, given either my Apple PC or my Apple
11 laptop, which does not work for ABRA.

12 But I guess the Attorney is
13 correct, you know, if we were to make a --
14 if I were to make a personal trip here for
15 every document that needed to be accepted
16 and get it stamped for one, I guess there is
17 a way that, I guess could happen, but it
18 would be highly inconvenient, and we just
19 assume that with post office or technology,
20 that they should work. You know, whether
21 it's your online form or your fax machine or
22 the postal service.

1 CHAIR MILLER: Okay, so, that
2 concludes your closing arguments, and do you
3 file proposed findings of fact and
4 conclusions of law?

5 MR. RIVERO: The Government
6 waives.

7 CHAIR MILLER: Okay, Mr.
8 Roberson, do you want me to explain that?

9 MR. ROBERSON: No, I remember
10 that from the last time.

11 CHAIR MILLER: Oh, you were here
12 before?

13 MR. ROBERSON: I'll waive it this
14 time.

15 CHAIR MILLER: Okay, good, that's
16 good. Yes, I don't think it's really
17 necessary.

18 All right, so, then the record is
19 closed in this case, and we'll be
20 deliberating on this shortly, and you'll get
21 a written decision in the mail. Hopefully,
22 the mail will work, and that's about it.

1 Okay, all right. Thank you.

2 MR. RIVERO: Thank you.

3 CHAIR MILLER: All right, I'm
4 assuming the Board wants to deliberate this
5 in closed session.

6 So, I will take a roll call vote
7 on that.

8 As Chairperson of the Alcohol
9 Beverage Control Board for the District of
10 Columbia, and in accordance with Section 105
11 of the Open Meetings Amendment Act of 2010,
12 I move that the ABC Board hold a closed
13 meeting for the purpose of seeking legal
14 advice from our Counsel on Case No. 13-CMP-
15 00583, Langston Bar & Grill, per Section
16 405(b)(4) of the Open Meetings Amendment Act
17 of 2010, and deliberating upon this case for
18 the reasons cited in Section 405(b)(13) of
19 the Open Meetings Amendment Act of 2010. Do
20 I hear a second?

21 MEMBER SILVERSTEIN: Second.

22 CHAIR MILLER: Mr. Silverstein

1 seconded the motion. I'll now take a roll
2 call vote of the motion before us, now that
3 it's been seconded.

4 (Roll call vote)

5 CHAIR MILLER: It appears that
6 the motion has passed by a 6-0-0 vote and I
7 hereby give notice that the ABC Board will
8 hold a closed meeting on this case, and
9 deliver a decision within 90 days.

10 All right, thank you very much.

11 MR. RIVERO: Thank you.

12 (Whereupon, the above-entitled
13 matter went off the record at 2:15 p.m.)
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<p>A</p> <p>\$650 46:20 47:2</p> <p>ABC 25:3 49:12 50:7</p> <p>above-entitled 50:12</p> <p>above-referred 11:11 30:14</p> <p>ABRA 6:11 8:12,13 8:16 23:10,12 27:22 34:19 38:19 40:14 41:5 42:6 47:7,8,11</p> <p>ABRA's 38:9</p> <p>accept 28:3,7 40:20</p> <p>accepted 47:15</p> <p>accurate 9:21</p> <p>Act 49:11,16,19</p> <p>address 23:6</p> <p>Administration 8:10</p> <p>administrative 14:5</p> <p>admit 10:16</p> <p>admitted 11:10,13 29:11 30:13 46:2</p> <p>advice 49:14</p> <p>afternoon 4:4,9,10 4:16 5:13 7:15 8:2</p> <p>Agency 20:6 21:13 44:9,21 45:5</p> <p>ahead 9:10 16:7,8 17:9 30:19 43:17</p> <p>Alberti 2:10 17:10 18:2,7,10,12 39:17,19,20 40:4 40:11 41:1,7,12 41:21 42:9,16,19 43:2,8,16</p> <p>alcohol 6:3 49:8</p> <p>alcoholic 1:3,17,18 6:1,4 8:9</p> <p>Amendment 49:11 49:16,19</p> <p>amount 20:8</p> <p>Analyst 8:8</p>	<p>ANC 4:9</p> <p>ANC6A 1:10</p> <p>answer 31:2 41:2</p> <p>Antonio 2:20 4:13 9:20 10:8 22:19</p> <p>anybody 39:15 42:11</p> <p>appeared 9:6</p> <p>appears 50:5</p> <p>Apple 47:10,10</p> <p>approach 10:18 11:3</p> <p>April 6:13 12:1 20:1 21:1,1 23:15 26:2 32:12,17</p> <p>argue 15:15</p> <p>argument 3:18</p> <p>arguments 48:2</p> <p>arrived 17:6</p> <p>asked 15:1 16:21 17:5,18 29:10 41:13,14</p> <p>assist 8:20</p> <p>assistant 12:18 15:4 16:10,11 17:11 23:11 27:8 40:2</p> <p>associated 41:18</p> <p>assume 39:5 47:19</p> <p>assumes 20:7</p> <p>assuming 42:22 49:4</p> <p>assumption 14:6,11 24:2,8 27:2 28:12 38:18 43:5</p> <p>assumptions 14:9</p> <p>attached 41:18</p> <p>attempt 23:16 47:5</p> <p>attempted 32:3,4</p> <p>Attorney 47:12</p> <p>audible 18:16 35:2 42:13</p> <p>audit 8:20</p> <p>Auditor 6:10</p> <p>August 6:15 12:6 16:15,17,17 17:11 27:12 28:1 44:20</p>	<p>46:15</p> <p>aware 13:20 14:4,8 19:21 20:22 21:9 21:21 23:9 24:16 24:19</p> <p>B</p> <p>back 4:4 18:1 45:21</p> <p>Bar 1:8 4:7,14 5:15 5:16 8:22 19:22 49:15</p> <p>based 6:9 13:5 19:8 19:10,13</p> <p>basically 23:2</p> <p>belief 6:8</p> <p>believe 36:18</p> <p>Benning 1:8 4:8 5:17</p> <p>best 45:9</p> <p>Beverage 1:3,17,18 8:9 49:9</p> <p>beverages 6:1,3,4</p> <p>beyond 19:17 20:9 21:13</p> <p>Board 1:3,18 4:3 5:14,20 16:6 18:18 19:9,11,13 29:3,4,7 31:1 35:1 42:15 43:21 44:1 46:17 49:4,9,12 50:7</p> <p>bring 23:12</p> <p>broad 20:5</p> <p>BROOKS 2:9</p> <p>brought 12:17 15:9 16:13</p> <p>Building 1:19</p> <p>burden 5:9 46:12</p> <p>business 40:12 41:5 42:5</p> <p>busy 24:4</p> <p>C</p> <p>C-L-A-R-K 8:5</p> <p>calendar 36:3</p> <p>call 6:22 7:12 23:20 24:2 39:8,13 42:4</p>	<p>49:6 50:2,4</p> <p>called 7:18 22:20</p> <p>capacity 8:12 20:19</p> <p>case 1:11 4:6,6 7:8 13:12 26:3 27:9 29:15 43:22 44:20 46:13 48:19 49:14 49:17 50:8</p> <p>Cause 1:8 4:16 5:15,18</p> <p>center 31:11</p> <p>Certainly 10:17 24:11 37:18</p> <p>CHAIR 4:3,15,21 5:5,8,12 6:16,19 7:1,4,10,14,21 10:10,15,19 11:1 11:4,7,14 13:1,5 13:10,14 16:6,9 16:15,19 17:1,8 18:14,17,20,22 19:5,8,12,16 20:13,16 21:11,16 21:22 22:10,14 23:1 24:9,12 28:20 29:1,6,8,21 30:2,6,10,17,19 32:7,11,14 34:22 35:3,9,12,15,17 35:22 36:4,10,13 36:17,19 37:2,5,9 37:13,15 38:1,6,9 38:13,20 39:1,9 39:14,18 42:11,14 42:18 43:6,9,13 43:18 46:22 47:3 48:1,7,11,15 49:3 49:22 50:5</p> <p>Chairperson 1:20 2:8 49:8</p> <p>charge 5:19</p> <p>chasing 44:11</p> <p>choose 7:6</p> <p>citation 14:15,20 14:22 15:2,15 24:21,22 25:1,5 26:6,9 27:4,16,17</p>	<p>27:19 28:10 45:21</p> <p>cited 49:18</p> <p>clarify 16:9 25:21</p> <p>Clark 2:21 3:3 6:11 6:22 7:12,17 8:4,6 11:16 13:19 16:13 16:17,21 17:5,16 18:5,9,11 19:4 22:8</p> <p>clear 14:21 15:8,13 25:9,10 44:7,17</p> <p>close 25:11 33:8</p> <p>closed 48:19 49:5 49:12 50:8</p> <p>closing 3:18,19 43:20 48:2</p> <p>CMP-00583 4:7</p> <p>Code 6:7 44:7</p> <p>Columbia 1:1 4:12 49:10</p> <p>come 17:17,17 26:16 40:16</p> <p>comment 33:6</p> <p>competency 20:9</p> <p>complete 6:17</p> <p>Compliance 8:8</p> <p>concerns 5:19</p> <p>conclude 19:1 43:10</p> <p>concludes 48:2</p> <p>conclusions 48:4</p> <p>concurrently 15:10</p> <p>condition 24:4</p> <p>consider 29:5,14</p> <p>CONTENTS 3:1</p> <p>Control 1:3,17,18 49:9</p> <p>copies 45:11</p> <p>copy 9:11,21 10:7 10:13,16,20,22 18:1 29:22 30:3,5 30:22 35:20 37:16 37:19 44:22</p> <p>corner 12:9,11</p> <p>correct 15:12 24:17 38:18 41:19 47:13</p> <p>Counsel 49:14</p>
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couple 25:15 27:3 27:15 course 33:6 40:12 41:4,21 cover 39:6 cross 3:2,2 13:17 24:10,13 30:18 CT 1:10 currently 31:9	12:1,12 13:20 14:7,12 23:17 24:7 29:11,17 30:15 31:6,16 32:21,22 34:2 37:20 39:11 45:3 45:11,17 46:1,3,7 46:13 47:5,15 documentation 20:8 documents 19:22 20:11,20,22 21:10 21:18 23:11,12 40:8,19 45:20 DONALD 2:9 door 45:10 drop 25:18 26:16 40:22 dropped 25:12,16 26:21 due 6:12 19:22 20:22 21:12 26:2 42:5 44:12,12,13 46:16 duly 7:19 22:21 duration 42:19,20 42:21 duties 8:15	exactly 15:18 examination 7:18 7:22 13:17 19:19 22:20 23:7 24:13 30:20 examined 7:19 22:21 exhibit 11:12 30:15 45:18,19 Exhibit-1 11:8 30:11 EXHIBITS 3:5 expenses 6:2,3 explain 48:8 extra 10:20 29:22	filing 11:9 22:4 35:4 44:3,3,5,15 45:6 find 15:14 46:18 findings 14:22 15:2 48:3 fine 5:7 14:15 46:19 47:2 finished 13:11 first 4:6 5:10 7:19 9:8,17 11:19 22:21 25:18 27:17 follow 24:1 follows 7:20 22:22 food 6:1,3,4 fool-proof 45:9 form 37:4 46:9 47:21 Fowler 34:4,9,11 34:14,15,16 front 17:17,18 35:6 35:8 further 12:21 22:8 33:4 34:21 42:10 43:17,18	30:8 46:18 48:5 Government's 37:19 46:11,12 Grill 1:8 4:7,14 5:15,16 9:1 20:1 49:15 gross 5:21 6:1 guess 19:14 20:20 33:1 47:12,16,17
D				
D.C 1:20 6:6 44:7 data 8:18 date 11:21,22 12:3 12:13 17:22 18:6 18:8 25:11 27:16 28:4,5,9 31:10,11 31:13,15 32:1,1,2 32:9,11,13 35:3 36:2,4,6 dated 23:14 dates 25:9 31:9 day 15:19 36:8 45:4 days 50:9 deadline 21:2 decision 22:2 48:21 50:9 declaration 33:14 deed 45:4 deliberate 49:4 deliberating 48:20 49:17 deliver 23:16 50:9 delivered 16:11 17:12 24:7 25:6,8 45:3,15 46:15 depends 40:14,14 desk 17:18 despite 45:17 determine 10:16 DIRECT 3:2 7:22 23:7 District 1:1 4:11 49:9 document 9:11,14 9:22 10:3,4,11,14 11:12,17,17,20	E earlier 36:8 39:7 easier 22:15 either 40:22 47:10 electronically 47:9 encompassed 21:18 enormous 20:7 entered 29:14 establishment 5:22 8:22 9:4,5 25:6 event 22:2 evidence 6:9 10:6 11:13 28:16 29:3 29:11,11,14,18,20 30:13,16 39:2 44:16,17 46:10,12 46:19 47:6 exact 15:18,20	F fact 6:13 14:6 44:17 45:3 46:2,6 46:13 48:3 failed 5:19 familiar 8:21 9:3 far 20:4 fashion 23:17 favor 46:18 favors 46:12 fax 3:12 23:13 24:5 24:8 28:14,22 29:13,17,20 31:18 32:3,4,10 33:7,8 33:11 36:20 38:2 38:3,9,16,18 40:1 40:3,12,18,22 41:4,8,17 45:16 47:21 faxed 32:17,21 36:6 36:8 46:5,8 faxes 47:8 Fernando 2:19 4:11 file 5:20 6:12 47:5 48:3 filed 6:14 11:21 12:1,4,5 24:17,20 26:4 39:22 44:18 45:4 46:15 Filer 34:13	G give 5:2 24:6 37:16 39:8,12 50:7 given 14:17 24:21 47:10 go 9:10 15:22 16:7 16:8 17:8 22:15 23:20 30:19 33:7 33:13,18 43:17 goes 5:10 going 7:2 9:10 13:12 20:3 22:1 22:11,12 31:1 47:7 good 4:9,10,15 5:13 7:14 8:2 48:15,16 Gordy 33:12 Government 3:6,17 3:18 4:19 5:9 6:21 7:12 10:5 11:8,12 21:4 22:8	H hand-delivered 27:8,20 28:1 handed 45:1 handing 37:19 handwriting 12:8 12:10 happen 40:18 45:13 47:17 happened 40:9 happy 10:22 hear 49:20 hearing 1:9,19 4:16 4:20 hearings 4:5 HECTOR 2:11 help 22:2 31:2 HERMAN 2:14 Hey 23:21 highly 47:18 hold 43:14 49:12 50:8 home 40:10 honest 47:4 Hopefully 48:21
I				
idea 5:2 identification 31:5 identify 9:14 29:17 imagine 20:18 41:10 inconvenient 47:18 indicate 18:3 indicated 17:21 indicates 12:11 individuals 9:7				

initialed 18:5,8 initials 12:13 instance 45:20 instruct 23:11 instructions 14:17 15:1,14 interact 22:16 interpret 44:2 issue 22:3 23:6 34:8 issued 5:18 15:16 ITEM 3:15	line 24:4 38:10 list 9:6 little 8:14 LLC 5:15 located 4:7 5:16 long 8:11 look 9:13,14 39:15 looking 32:20,22 35:10 37:5,6	mention 15:5 met 1:18 16:20 method 45:10 methods 45:6 MIKE 2:12 Military 36:15 Miller 1:21 2:8 4:3 4:15,21 5:5,8,12 6:16,19 7:1,4,10 7:14,21 10:10,15 10:19 11:1,4,7,14 13:1,5,10,14 16:6 16:9,15,19 17:1,8 18:14,17,20,22 19:5,8,12,16 20:13,16 21:11,16 21:22 22:10,14 23:1 24:9,12 28:20 29:1,6,8,21 30:2,6,10,17,19 32:7,11,14 34:22 35:3,9,12,15,17 35:22 36:4,10,13 36:17,19 37:2,5,9 37:13,15 38:1,6,9 38:13,20 39:1,9 39:14,18 42:11,14 42:18 43:6,9,13 43:18 46:22 47:3 48:1,7,11,15 49:3 49:22 50:5 mis-heard 39:21 moment 43:15 Monica 2:21 6:11 6:22 7:12,17 8:4 month 20:1 21:1 months 46:16 morning 33:12 motion 50:1,2,6 move 4:20 10:6 29:16,19 49:12 multiple 45:5	NE 1:8 necessary 48:17 need 5:1 25:21 39:15 needed 47:15 NICK 2:10 night 23:15 36:9,14 nighttime 36:14 non-filers 9:6 normal 40:5,12 41:4 normally 23:18 24:5 33:7,17 40:5 Northeast 4:8 5:17 notation 12:8 note 39:7,12 notice 50:7 notification 25:19 notified 14:1 26:1 number 36:20,21 37:1 38:1,2,3,5,15 38:16,19,21 number/name 38:3	18:12,14,22 19:8 19:18 21:11,16,22 22:5,10,14 23:1,8 24:9,12,22 25:14 26:14,19 27:21 28:5,13,16,20 29:8,21 30:2,6,10 30:17 31:8,19,22 32:6,14,20 33:2 34:1,20,22 35:12 35:16 36:4,10,17 38:13,20 39:9,9 39:14,18 41:1,7 41:12 42:9,11,18 43:2,6,9,14,19 48:1,7,15 49:1 once 43:22 online 40:20 47:9 47:21 Open 49:11,16,19 opening 3:17 6:17 7:5 23:3 operating 14:10 opportunity 13:8 13:11 44:1 option 47:7,8 overall 15:21 owner 9:18
<hr/> J	<hr/> M			
JAMES 2:13 job 8:16 21:5 JONES 2:14	M 3:3 M-O-N-I-C-A 8:5 Mac 40:18 machine 33:21,22 47:21 MacIntosh 40:21 mail 48:21,22 mailbox 45:14 managers 25:3 marked 11:12 30:15 MARKED/REC... 3:5 Marty 34:4,7,8,8 34:11,13 Maryland 45:15 matter 1:7 5:15,18 22:3 25:13 50:13 matters 4:17,19 8:20 41:5 mean 28:3 38:2 44:4 meeting 1:5 49:13 50:8 Meetings 49:11,16 49:19 meets 46:11 Member 2:9,10,11 2:12,13,14 16:8 17:2,7,10 18:2,7 18:10,12 39:17,20 40:4,11 41:1,7,12 41:21 42:9,16,19 43:2,8,16 49:21 members 5:14 25:2 43:22	<hr/> O		
<hr/> K				
kind 37:16 40:21 kinds 45:12 knew 26:17,20 know 16:20 23:2,21 24:3,4 28:3 29:12 36:9 41:10 42:7 42:20 45:9 47:7 47:10,13,20 known 8:22				
<hr/> L				
labeled 31:6 Langston 1:8 3:8 4:7,14 5:15,16 8:22 19:22 49:15 laptop 47:11 late 12:12 latest 11:21,22 law 44:14 48:4 legal 49:13 letters 45:17 License 1:10 4:8 Licensee 5:19 6:11 9:12,17 35:21 44:6,11,15 45:2 46:2 Licensee's 35:20 45:8,18,22 Licensees 8:19				
		<hr/> N		<hr/> P
		N.W 1:20 name 8:3,4 nay 23:22	object 19:17 20:4 objection 30:7,9 objections 11:5 objects 21:4 Obviously 44:8 occasion 24:1 occasions 23:19 occupation 8:7 OCTOBER 1:15 office 12:19 15:4 16:14 47:19 Official 6:6 Oh 48:11 ok 45:17 okay 4:3,15,21 5:5 5:8,12 6:16 7:1,4 7:10,14,21 8:11 8:15 9:10 10:2,5 10:15 11:1,4,7,14 11:20 12:3,20 13:1,6,16 16:5,6 16:19 17:1 18:2	P-R-O-C-E-E-D-... 4:1 p.m 4:2 36:16 50:13 page 3:15 31:6 39:4 pages 38:21 46:5,8 46:8 Pardon 33:10 particular 22:3 46:20 particularly 10:22 passed 50:6 PC 47:10 penalty 46:20 people 23:21 40:8 period 42:6 person 14:5 23:4

44:21 personal 47:14 personally 14:3 16:11 phone 36:20 37:1 placed 44:6 places 44:14 please 8:2 17:4 point 18:10 29:4 poor 24:3 position 23:8 positive 36:7 45:2 possession 14:13 possible 20:8 44:14 possibly 21:13 post 47:19 postal 47:22 practically 44:13 pragmatic 44:8 preliminary 4:17 4:19 prepared 9:17 10:7 35:5 36:2 preponderance 6:9 46:11 present 2:6,17 29:5 presiding 1:21 pretty 14:21 25:7 25:10 34:5 previously 9:12 printed 31:15,17 prior 23:13 27:15 47:7 probably 22:14 39:6 40:6 problem 26:18 33:19 39:8,12 procedure 29:9 40:5 proceedings 5:1,2 process 15:22 17:14 produced 20:12 proof 5:9 23:16 45:2 46:4 proof-positive 45:12	proposed 48:3 protest 14:14,22 15:2,6,15 proves 46:7,7 provided 31:1 provides 44:1 45:5 providing 35:20 proximity 25:11 purchases 6:2,4 purpose 49:13 purposes 31:4 put 18:5,7 38:11 45:14 <hr/> Q <hr/> quarter 9:8,18 11:18,19 15:9,10 25:17,17,19 26:1 36:3 quarterly 3:8 5:21 8:17 9:8,16 10:7 11:8 15:7 16:12 17:12,21 21:5 29:12 35:4,13 37:4,12 38:16 39:3 41:19 42:1 46:14 quarters 44:19 question 19:7,7 20:4,7,16,21 21:8 21:19,20 25:22 26:8 27:18 37:22 39:19 41:2,14 42:17 43:14 44:18 46:14 questions 4:22 12:21 13:2 15:22 16:7 18:15,18,18 19:9,11,14 31:3 33:4 34:21 35:1 42:10,14,15 43:10 43:19 quite 26:11 <hr/> R <hr/> RE-CROSS 19:19 30:20	RE-DIRECT 3:2 ready 4:20 realized 26:3 really 23:5 41:2,3 46:4 48:16 reason 26:15 reasons 44:8 49:18 rebuttal 43:20 recall 13:19 15:17 16:2,4 17:13 20:2 28:4 receipts 5:22 6:1 receive 8:17 10:2,4 20:17,17 25:1 26:9 received 12:5,12,13 12:15,16,17 14:20 15:3,7 17:14,22 18:6 23:10 25:3 25:20 26:5 27:16 28:10 30:16 44:16 receiving 20:19 27:3 recollection 42:4 recommend 46:19 record 4:4 8:3,18 17:13 31:5 48:18 50:13 recorded 12:14 recording 17:14 Reeves 1:19 regular 40:7,7 Regulation 8:9 remember 15:21 48:9 repeat 25:14 32:8 rephrase 14:19 report 6:12,14 24:16,20 26:1 27:8 30:12 31:7 31:18,21 32:17,22 35:14 36:5 37:4,7 37:12,17 39:2 41:19 42:2 44:12 44:17,18 46:14 reports 5:21 25:12 26:17 27:9,20	required 5:20 6:6 6:12 respect 8:16 Respondent 3:10 3:19 30:11,15 response 18:16 20:14 35:2 42:13 responsibility 20:6 44:5,15 45:7 responsible 44:10 Retailer 1:10 review 8:18 right 5:8 7:5,10 11:7 12:3 13:13 13:15,16 17:8 18:17 19:2 20:13 22:5 26:7 27:1,5 27:18 28:13 29:1 29:6 30:7 31:10 31:12,13,14 32:18 33:3 34:20 37:2 37:20 38:14 39:14 41:12 43:2,10,20 45:10 48:18 49:1 49:3 50:10 right-hand 12:9,11 Rivero 2:19 4:10 4:11,18 5:11,13 6:18,21 7:6,11 8:1 10:5,12,17,21 11:2,15 12:21 18:18,19 19:3,17 20:3 21:3,12,17 22:7 24:11,14 28:21 29:2,7,10 30:3,5,8,18,21 32:15 33:3,10,16 33:20 34:1,6,10 34:13,15,17,20 35:9,11,13,16,19 37:13,14,18 41:13 43:21 47:2 48:5 49:2 50:11 Road 1:8 4:8 5:17 Roberson 2:20 3:4 4:13,13,22 5:4,7 7:2,3,9 9:20 10:8	10:10,13 11:5,6,9 13:2,4,7,13,16,18 16:5 18:20,21 19:6,10,13,20 20:14,15,18 21:20 22:11,13,19 23:8 24:15 29:19 30:1 30:4 32:9,12 33:5 33:11,17,22 34:4 34:7,11,14,16,18 35:7 36:1,7,12,15 36:18,22 37:3,8 37:11,16,21 38:4 38:8,11,17,22 39:5,10,21 40:3,6 40:13 41:6,9,20 42:3,22 43:4,12 47:3,4 48:8,9,13 Roberson's 12:18 16:11 RODRIGUEZ 2:11 roll 49:6 50:1,4 Room 1:19 rules 29:9 Ruthanne 1:21 2:8 <hr/> S <hr/> sales 5:22 6:2 saying 26:9 says 38:2,2,6,21 42:20 scenarios 40:21 scope 19:18 21:14 second 43:13 49:20 49:21 seconded 50:1,3 seconds 43:1 Section 49:10,15,18 see 31:8 35:17 46:3 seeking 49:13 send 23:19 40:8,18 45:15 sent 40:1,3 separately 6:5 service 47:22 session 49:5 sets 31:9
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

share 10:22	submitted 9:7	23:14 25:2 27:5	understand 27:6	wrong 38:12
shared 9:12	13:21 14:12 26:12	27:15 38:13 41:13	urgent 40:17	<hr/> X <hr/>
sheet 23:14 39:6,11	35:5 41:17 44:19	41:14 48:16	use 31:1 40:11 41:4	<hr/> Y <hr/>
SHORT 2:13	successful 33:15	third 39:4	41:8	
shortly 48:20	successfully 34:3	three 38:21 41:9	<hr/> V <hr/>	yay 23:22
show 1:8 4:16 5:14	support 45:22	46:5,7,8	verification 30:12	year 6:14 36:3
5:18 9:11	suppose 11:21	time 7:13 10:6	31:7,18,20	years 8:14
shown 10:11	sure 13:22 25:7,15	12:22 13:8,21	violation 46:21	<hr/> Z <hr/>
shows 34:2 36:5	27:5 34:5 41:22	15:9,11,16 18:3	visited 17:11	<hr/> 0 <hr/>
signature 9:19	sustain 22:1	20:10 23:15 25:16	vote 49:6 50:2,4,6	
signed 9:18 45:1	swear 22:11	26:22 28:17 35:21	<hr/> W <hr/>	00:00:41 42:21
Silverstein 2:12	sworn 7:19 22:21	36:11,13,16 42:6	wait 7:7,9 43:13	00583 49:15
16:8 17:2,7 49:21	<hr/> T <hr/>	47:5 48:10,14	waive 48:13	<hr/> 1 <hr/>
49:22	table 3:1 13:15	timely 5:20 23:17	waives 48:6	1 3:8,12 11:13
simply 44:13	take 9:13 49:6 50:1	24:17,20 26:4	walk 45:10	15:10 25:17 26:1
single 44:11	technology 47:19	Title 44:6	want 21:15 23:3	30:16
so-called 45:6	telephone 24:2 38:4	today 4:20 5:14	38:14 44:9 48:8	1:40 4:2
sole 45:18,19	38:15	6:20 39:7 40:16	wanted 14:14,21	105 49:10
sorry 32:7 34:10	tell 12:7 19:15	44:16	15:14,14	11/11 3:8
speak 16:22 17:5	29:16 32:21 33:1	top 12:8,10 31:10	wanting 15:5	11th 23:15 32:12
17:18	33:2 46:9	31:14	wants 49:4	32:17
specialist 34:18	telling 41:16 44:10	total 6:2	Washington 1:20	13 3:3 4:6 12:6
specific 20:6	tells 33:18	trading 5:16	way 24:8 33:1,2	16:17 27:12 44:20
speculate 21:17	tend 40:22	transmission 3:12	41:14,16 47:17	46:15
spoke 17:20	testified 7:19 10:8	24:6 28:14,22	we'll 48:19	13-CMP 49:14
sponsored 25:18	20:5 21:5,6 22:21	29:13,17 30:12	We're 5:14	13-CMP-00583
26:16	24:15 26:5 28:14	31:7,20 36:5 37:6	week 25:13 41:11	1:11
staff 25:2	28:22	37:7,17 39:2	weeks 25:16 27:3	13th 16:16 17:11
stamp 18:3 45:11	testify 11:16 22:12	transmit 34:3 47:6	27:15 28:9	28:2
stamped 47:16	38:14	transmittal 23:14	went 42:1 50:13	14th 1:19
state 8:3	Testifying 20:11	29:20 33:14 39:11	witness 3:2 6:10,20	15 1:15
statement 3:8,17,19	testimony 6:10	41:17 42:1	7:2 10:9 13:3	18 3:3
5:21 6:17 7:5	13:6 19:1 21:14	transmitted 32:10	20:5 21:4,9,15	1831 1:8 4:8 5:17
9:16 10:7 11:9	23:7 25:21 27:6,7	tried 23:19 33:11	22:16 27:7 28:21	<hr/> 2 <hr/>
15:7 16:12 23:3	27:14 28:8 32:16	39:7 40:19 47:9	29:5 37:19 44:22	2 15:10 25:17
24:5 29:12 35:4	43:11 45:22	trip 47:14	witness's 20:9	2:15 50:13
38:16 39:3	thank 5:11 7:11,21	try 33:8	21:14	2000 1:19
statements 8:18,19	8:21 11:4 12:20	turn 7:7	witnesses 22:9	2010 49:11,17,19
9:8 17:12,21,22	17:7 18:12,13	twice 41:10	wording 15:18,20	2013 6:13 9:9,18
21:6	19:2,3 22:6,7 30:6	two 8:14 17:12	44:2	11:19 12:2,6
statute 44:2	35:12,22 39:15	25:12 26:21 27:9	work 5:3 21:5	15:17 16:18 27:12
stipulate 46:6	43:3,19,21 46:21	28:8 31:9 44:18	47:11,20 48:22	28:2 44:21 46:15
story 23:5,5	49:1,2 50:10,11	45:10	works 23:6	2014 1:15
Street 1:20	thing 17:3	<hr/> U <hr/>	wouldn't 44:9	202-442 38:6
stuff 23:19	things 45:13	ultimately 45:7	written 48:21	
subject 26:2 44:20	think 21:22 22:1	underneath 36:20		
submit 13:8 29:20				

2150 36:10

22 3:4

23 3:4

25 44:6

25-113(b)(2)(a) 6:7

29 3:4

29/29 3:12

3

30 6:13

30th 12:1 26:2

4

4/11 36:5

405(b)(13) 49:18

405(b)(4) 49:16

41 3:18 43:1

45 3:19

5

5 3:17

6

6-0-0 50:6

6A 4:9

7

7 3:3

76260 1:10 4:9

8

9

9:50 36:16

90 50:9

9563 38:7